

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-21 are pending in the present application; claims 1, 6, 9, 10, and 13 having been amended by way of the present amendment.

The Applicants acknowledge with appreciation the courtesy of an interview extended by SPE Corsaro and Examiner Chambers on June 17, 2008, during which the outstanding Office Action was discussed. During the interview, a novel feature of the claims was explained and an explanation was provided as to how the primary reference to Gan does not disclose nor suggest the claimed feature of “the transmitter transmits each radio frame containing the channel information.” Further, it was pointed out that the second to the last paragraph of claim 1 is not disclosed nor suggested by Gan. This second to the last paragraph recites “a transmission applying-channel notifying unit that inserts channel information for identifying a channel into each radio frame.” Moreover, at the interview an agreement was reached regarding the removal of the rejection under 35 U.S.C. § 101 and the other objections and rejections of the claims under 35 U.S.C. § 112, second paragraph.

In the outstanding Office Action, certain references of the IDS were indicated as not being considered, the specification was objected to, the claims were objected to, claims 1-9 were rejected under 35 U.S.C. § 101, claims were rejected under 35 U.S.C. § 112, second paragraph, and each of the claims were rejected under 35 U.S.C. § 102(b) or 35 U.S.C. § 103.

Certain references submitted in an IDS were indicated as not being considered. In response to this indication, Applicants submit herewith a new 1449 which lists the date of the document related to the RCR STD as 1997, and lists the date of the 802.11a publication as 1999. These dates are believed to be accurate, but whether or not they are accurate, the

Applicants admit that the subject matter at issue in the prior art documents was disclosed more than one year prior to the U.S. filing date of the filing application and therefore, those submissions qualify as prior art against the present application.

Accordingly, a new Form PTO 1449 has been submitted which lists the two “Other References” and consideration of these documents is respectfully requested.

With regard to the other non-considered or partially considered documents, the Applicants have done their job in disclosing these documents to the U.S. PTO.

The specification was objected to because the abstract did not spell out the acronym MAC. In response to this objection, the abstract has been amended to spell out the acronym MAC.

Accordingly, the objection to the specification and the abstract is respectfully requested to be withdrawn.

The claims were objected to because of the use of the term “either one of ... and” In response to this objection, each of claims 9, 21, 10, and 13 have been amended to change the word “and” to the word “or” as suggested by the outstanding Office Action.

Claims 7, 19, and 12 were objected to because of the word “and” in the phrase “at least one of...and....” In response to this objection, it is respectfully pointed out that it is appropriate English to say at least one of x and y and the word “or” is less appropriate than the word “and.” Accordingly, no changes have been made to these claims as appropriate terminology exists in these claims.

With respect to claims 13-21 as objected to as being substantially duplicate to claims 1-12, this certainly is not the case. Claim 1 is directed towards a transmitter, whereas claim 13 is directed to a device which recites both a transmitter and a receiver. Further, claim 10

relates to a receiver alone and there is no other claim which corresponds to such a feature in this application.

Accordingly, this objection and all other objections to the claims are respectfully requested to be withdrawn.

Claims 1-9 stand rejected under 35 U.S.C. § 101. This rejection is respectfully traversed.

Claim 1 is directed towards a transmitter which transmits a radio frame to a receiver. Claim 1 clearly recites a transmitter. Merely because of the recitation of the receiver in the preamble does not make the claimed transmitter nonstatutory. The claimed transmitter is without a doubt statutory and therefore, the rejection under 35 U.S.C. § 101 is respectfully requested to be withdrawn.

Claims 1, 6, 9, 10, 13, 18, and 21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Each of the rejected claims has been amended in order to address the indefiniteness rejection, except for claim 18.

Claim 18 was rejected because of the recitation of “the radio communication system.” The preamble of both claims 18 and claim 13 from which claim 18 depends recites a “radio communication apparatus.” Therefore, the claim is clearly claiming a radio communication apparatus. This apparatus happens to operate within a radio communication system and this system is not being claimed. Moreover, claim 18 has been amended in response to the suggestion by Mr. Corsaro at the interview.

Therefore, the rejection of claim 18 is respectfully requested to be withdrawn.

Each of the pending claims stands rejected under 35 U.S.C. § 102 or § 103 using U.S. Published Application No. 2002/0136268 A1 to Gan et al. (hereinafter “Gan”). This rejection is respectfully traversed.

The present invention as recited in Claim 1 for example, recites at the last line, “each radio frame containing the channel information.” This is a novel feature of the invention and not disclosed or suggested in Gan.

The Background section of this application explains, for example, at p. 2, lines 17-21 that according to related art systems, “the predetermined allocation request amount, is for example, an allocation request amount set in advance, or an allocation request amount calculated based on a data amount of the transmission buffer addressed to each terminal.” Further detail of conventional technology is set forth in the specification at p. 3, beginning at line 21. Problems with the conventional technology are described beginning at p. 4, line 31. At p. 4, line 31-p.5, line 4, it is explained that there is one channel used to determine plural applying channels. However, it is explained in the first full paragraph on p. 5 that data cannot be transferred immediately after communication has started. At p. 5, lines 26-31, it is explained that in other conventional technologies in which plural applying channels are fixed, the number of retransmission increases and throughput decreases.

To the contrary of conventional systems including Gan et al., claim 1 recites that the transmitter transmits each radio frame containing the channel information. Gan et al. does not have each radio frame transmitting the channel information but it is explained in Gan at p. 10, section IV, that there is special packet that identifies the selected set of good communication channels in the payload. Thus, contrary to claim 1 which transmits each radio frame containing the channel information, it appears in Gan that only the “special packet” which is the “good channel packet 400” of Figure 4 identifies the selective set of

good communication channels. Thus, the limitation of the transmitter transmits each radio frame containing the channel information is neither disclosed or suggested in Gan. While the “special packet” which is referred to as the good channel packet 400 may contain information of good communication channels, none of the other packets of Gan et al. disclose the transmission of channel information, as claimed.

Claim 13 is allowable for similar reasons as it recites “a transmission applying-channel notifying unit that inserts channel information for identifying a channel into each radio frame.

Similarly, claim 10 has been amended to recite a similar limitation.

Claims 10-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by Yamaura, et al. This rejection is respectfully traversed.

Claim 10 has been amended to include the feature of each radio frame containing the channel information. This claim is patentable for the same or similar reasons as the other independent claims of this application are patentable.

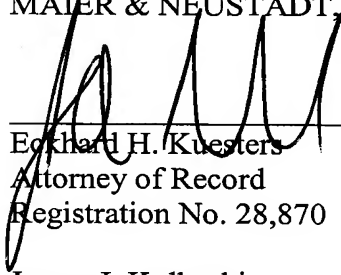
Accordingly, each of the independent claims is patentable, and therefore, the rejection of each independent claim and the claims depending therefrom are respectfully requested to be withdrawn.

The dependent claims are patentable for at least the reasons the independent claims from which they depend are patentable.

Consequently, in light of the above discussion and in view of the present amendment, the present application is in condition for formal allowance and an early and favorable action to that effect is requested.

Respectfully submitted,

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